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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/951,276	10/16/1997	DAVID G. MCCARTHY	402-038-19	1410

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EXAMINER

HAMMOND, BRIGGITTE R

ART UNIT PAPER NUMBER

2833

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

08/951,276

Applicant(s)

MCCARTHY, DAVID G.

Examiner

Briggitte R. Hammond

Art Unit

2833

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/19/1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is in response to applicant's request for reconsideration received on March 18, 2004.

#### ***Drawings***

The objections to the Drawing have been withdrawn in view of Applicant's admission/acknowledgment that the features previous objected to, are conventional and therefore well known and understood by persons skilled in the relevant art.

(See page 4, lines 1-5 of applicant's response dated June 11, 2003).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 7-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Byrne 4,747,788 in view of Mitchell et al. Regarding claims 1 and 16 Byrne discloses a retractable receptacle 150 with sidewalls (front side of box 152) adapted to be mounted in an opening in a top surface of an article of furniture 104. Byrne discloses the top of the receptacle being "substantially" planar with a top surface of the article of furniture (see col. 7, lines 10-12). However, Mitchell et al. disclose an article of furniture 10 with a top surface 12, a receptacle unit 30 with a top surface (top of 50 in figure 2), a receptacle 48, and a housing 30 mounted on an underside of the furniture 10. Mitchell

furniture 10. Mitchell et al. do not disclose the top of the receptacle being planar with a top surface of the article of furniture. However, Mitchell et al. do disclose a disk (not shown) for providing a two-piece uninterrupted working surface (see col. 3, lines 62-66). Therefore, it would have been obvious to one of ordinary skill to modify the receptacle of Byrne by having the top of the receptacle being planar with a top surface of the article of furniture so that the surfaces would be flush as taught by Mitchell et al.

Regarding claim 2, the receptacle of Byrne displaces in a direction perpendicular to the top surface of the article of furniture (see fig. 1).

Regarding claims 3, 12, 13 and 17, Byrne does not show each sidewall having a receptacle. However, on page 9, lines 54-57 Byrne discloses that the receptacle box 152 (which includes the walls) could be double sided to accommodate multiple receptacles. It would have been obvious to modify the receptacle of Byrne to include receptacles on multiple sidewalls to supply multiple outlet capacity.

Regarding claims 4,5,7 and 18, Byrne discloses a gap space 166, to permit transmission lines to extend through and means 168 for covering the gap space.

Regarding claims 9 and 10, since Byrne discloses the covering means as being a brush 168 and the brush acts as a screen.

Regarding claims 14 and 15, the receptacle of Byrne is generally rectangular/square (see figs. 1,2,4, and 5).

Claims 1,2, 4-7, 10, 12-15, 19 and 20 are rejected under 35 U.S.C. 103 (a) as being as being unpatentable over Mitchell et al. Mitchell et al. disclose an article of furniture 10 with a top surface 12, a retractable receptacle unit 30 with a top surface (top

of 50 in figure 2), a receptacle 48, and a housing 30 mounted on an underside of the article of furniture 10. Mitchell et al. do not disclose the top of the receptacle unit being planar with a top surface of the article of furniture. However, Mitchell et al. do disclose a disk (not shown) for covering the receptacle unit and providing a planar surface with the article of furniture (see col. 3, lines 62-66). It has been held to be within the general skill of a worker in the art to make plural parts unitary as a matter of obvious engineering choice. In re Larson, 144 USPQ 347 (CCPA 1965); In re Lockart, 90 USPQ 214 (CCPA 1951). Therefore, it would have been obvious to one of ordinary skill to modify the receptacle unit of Mitchell et al. by making a one piece top such that the top of the receptacle unit would be flush with the article of furniture to provide an uninterrupted surface to the article of furniture and the retractable receptacle unit as taught by Mitchell et al.

Regarding claim 2, the receptacle unit of Mitchell et al. displaces in a direction perpendicular to the top surface of the article of furniture (see figs. 2-7).

Regarding claims 4 and 5, the receptacle unit of Mitchell et al. has a gap space (at 16) that is of a sufficient dimension to permit a transmission line when the receptacle unit is in a retracted position.

Regarding claim 6, the receptacle unit of Mitchell et al. further includes means 118 for biasing and locking means 116.

Regarding claims 7 and 10, Mitchell et al. also discloses means (a disk, not shown) for covering the gap (see col. 3, lines 62-66).

Regarding claims 12-15, the receptacle unit of Mitchell et al. has a generally rectangular/square shape (as shown in the drawings) and a plurality of sidewalls with at least one receptacle (see col. 4, lines 42-45).

### ***Response to Arguments***

Applicant's Request for consideration/Arguments filed June 11, 2003 and March 18, 2004 have been fully considered but they are not persuasive. In response to Applicant's arguments/request that the objections to the drawing be withdrawn. The Examiner responds that the objections have been withdrawn in view of Applicant's admission/acknowledgment that the features previously objected to, are conventional and therefore well known and understood by persons skilled in the relevant art.

In response to Applicant responding to the 35 U.S.C. 103 Rejections by incorporating both the "Petition To Commissioner Under 37 C.F.R. 1.1811" and the "Request For Reconsideration Of Decision On Petition By Technology Center Director". The Examiner responds that Applicant has not properly responded to the 35 U.S.C. 103 Rejections. Applicant needs to point out disagreements with the examiner's contentions or discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them. Applicant has not properly responded to the aforementioned rejections, therefore the 35 U.S.C. 103 Rejections stand.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brigitte R. Hammond whose telephone number is 571-272-2006. The examiner can normally be reached on Mon.-Thurs. and Alternate Fridays from 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula A Bradley can be reached on 571-272-2800 ext. 33. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brigitte R. Hammond  
Examiner  
Art Unit 2833

September 17, 2004